

THE GOVERNMENT

**DECREE No. 69/2006/ND-CP OF JULY 21, 2006,
AMENDING AND SUPPLEMENTING A NUMBER
OF ARTICLES OF DECREE No. 68/2002/ND-CP
OF JULY 10, 2002, DETAILING THE
IMPLEMENTATION OF A NUMBER OF
ARTICLES OF THE MARRIAGE AND FAMILY
LAW REGARDING THE MARRIAGE AND
FAMILY RELATIONS INVOLVING FOREIGN
ELEMENTS**

THE GOVERNMENT

*Pursuant to the December 25, 2001 Law on
Organization of the Government;*

*Pursuant to the June 9, 2000 Law on Marriage and
Family;*

At the proposal of the Minister of Justice,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- To amend and supplement a number of articles of the Government's Decree No. 68/2002/ND-CP of July 10, 2002, detailing the implementation of a number of articles of the Marriage and Family Law regarding the marriage and family relations involving foreign elements as follows:

1. To amend Article 1 as follows:

"Article 1. Regulation scope

This Decree details the implementation of a number

of articles of the Marriage and Family Law regarding the marriage and family relations involving foreign elements, which include the marriage, the recognition of fathers, mothers or children, and the child adoption between Vietnamese citizens and foreigners or between foreigners permanently residing in Vietnam; the recognition of marriages, recognition of fathers, mothers or children as well as child adoption between Vietnamese citizens or between Vietnamese citizens and foreigners, which have been carried out at competent foreign agencies."

2. To amend and supplement Article 8 as follows:

"Article 8. Charges and fees

1. Those who apply for the registration of marriages, recognition of fathers, mothers, children or child adoption, or for annotations on marriages, recognition of fathers, mothers, children or child adoption into the registers, which have already been carried out at competent foreign agencies, must pay civil status fees as provided for by law.

2. Those who apply for adoption of Vietnamese children under the provisions of this Decree must pay charges for child adoption settlement. The charge and fee levels and the regime on management of collection, remittance and use of these charges and fees shall be provided for by the Finance Ministry."

3. To amend and supplement Clauses 1 and 2 of Article 13 as follows:

"1. The marriage registration dossier of each party shall comprise the following papers:

a/ The marriage registration declaration made according to a set form;

b/ The written certification of marital status of each party, made within 6 months to the date the dossier is received, by a competent agency of the country of which the applicant is a citizen, stating that such

applicant is currently unmarried.

Where the law of the country of which the marriage applicant is a citizen does not prescribe the grant of written certification of marital status, such certification may be replaced by a certification of oath taken by the applicant that he or she is currently unmarried, in accordance with the law of the concerned country.

c/ The written certification granted by a Vietnamese or foreign competent health organization within 6 months to the date the dossier is received, certifying that the applicant does not suffer from mental diseases or other diseases which render him or her incapable of being aware of and controlling his/her acts;

d/ The notarized or authenticated copy of the people's identity card (for Vietnamese citizens in the country), the passport or such substitute paper as laissez-passer or residence card (for foreigners or overseas Vietnamese citizens);

e/ The notarized or authenticated copy of the household registration book or the certificate of being collectively registered resident or temporary resident (for Vietnamese citizens in the country), the permanent residence card or temporary residence card or temporary residence certificate (for foreigners in Vietnam).

2. In addition to the papers prescribed in Clause 1 of this Article, Vietnamese citizens being on active service in the armed forces or performing jobs directly related to state secrets are required to submit written certifications by their respective managing agencies or organizations of the central or provincial level that their marriages with foreigners shall not affect the protection of state secrets or contravene regulations of the concerned branches."

4. To amend and supplement Clause 1 of Article 16 as follows:

"1. Within 20 days after receiving complete and valid dossiers as well as fees, the provincial/municipal

Justice Services shall have the responsibility:

a/ To conduct at their offices face-to-face interviews with the involved men and women in order to examine and clarify the voluntariness of their marriages, their capability of communicating with one another in a common language and their understanding about each other.

The interviews must be recorded in writing. Interviewers must state their opinions and suggestions and sign interview records.

b/ To post up marriage notices for 7 consecutive days at their offices, and at the same time to send official written requests to the commune-level People's Committees of the localities where the involved parties being Vietnamese citizens permanently reside or temporarily reside or where the foreigners in Vietnam permanently reside for posting up such notices. The commune-level People's Committees shall, after receiving official letters from the provincial/municipal Justice Services, have to post up marriage notices for 7 consecutive days at their offices. Within this time limit, if there is any complaint or denunciation about, or law-breaking act detected in relation to, the marriages, the commune-level People's Committees shall have to immediately send reports thereon to the provincial/municipal Justice Services.

c/ To study and verify the marriage registration dossiers. In cases where there is any doubt, complaint or denunciation that the involved parties enter into marriages through illegal brokerage, make sham marriages, take advantage of the marriage for the purpose of trafficking in women or for other self-seeking purposes or where they deem that the personal identification of the involved parties or papers in the marriage registration dossiers need to be clarified, the provincial/municipal Justice Services shall conduct the verification for clarification.

d/ To report on the results of interviewing the involved parties and examining the marriage dossiers

and submit proposals on the settlement of marriage registration to the provincial-level People's Committees for decision, enclosed with one set of the marriage registration dossier."

5. To amend and supplement Clause 2 of Article 18 as follows:

"2. The marriage registration shall also be refused if the interview, inspection and verification results show that the marriage is conducted through illegal brokerage or is sham, not for the purpose of building a prosperous, equitable, progressive, happy and sustainable family; is not suitable with the fine traditions and customs of the nation; or aims at trafficking in women, sexually abusing women or other self-seeking purposes."

6. To amend and supplement Article 19 as follows:

"Article 19. Marriage registration at Vietnamese diplomatic missions or consular offices

1. Within 20 days as from the date of receiving complete and valid dossiers as well as fees, the Vietnamese diplomatic missions and consular offices shall have the responsibility:

a/ To conduct right at their offices face-to-face interviews with the involved men and women in order to examine and clarify the voluntariness of their marriages, their capability of communicating with one another in a common language and their understanding about each other.

The interviews must be recorded in writing. Interviewers must state their opinions and suggestions and sign interview records;

b/ To post up marriage notices for 7 consecutive days at Vietnamese diplomatic missions or consular offices;

c/ To study and verify the marriage registration dossiers. Where there is any doubt, complaint or

denunciation that the involved parties enter into the marriage through illegal brokerage, make the sham marriage, take advantage of the marriage for the purpose of trafficking in women or for other self-seeking purposes or where they deem that the personal identifications of the involved parties or papers in the marriage registration dossiers need to be clarified, the Vietnamese diplomatic missions or consular offices shall conduct the verification for clarification;

d/ In cases where they deem that the issues to be verified fall within the functions of the concerned agencies in the country, Vietnamese diplomatic missions or consular offices shall send official letters to the Foreign Ministry, clearly stating the issues which need to be verified for coordination in verification with the concerned agencies according to their specialized functions.

Within 20 days as after receiving the official letters from Vietnamese diplomatic missions or consular offices, the concerned agencies in the country shall verify the requested matters and reply the latter in writing.

e/ If deeming that the involved parties fully meet the marriage conditions and do not fall into one of the cases of marriage registration refusal prescribed in Article 18 of this Decree, the heads of Vietnamese diplomatic or consular offices shall sign marriage certificates.

In case of refusal to register the marriage, Vietnamese diplomatic missions or consular offices shall notify such in writing to the involved parties, clearly stating the reasons therefor.

2. A marriage registration ceremony shall be organized within 7 days as from the date the head of a Vietnamese diplomatic mission or consular office signs the marriage certificate, except where the involved parties, for plausible reasons, request other time, but such time limit shall not exceed 90 days; past this time limit, if the involved parties request the

organization of the marriage registration ceremony, they must restart the marriage registration procedures.

3. Marriage registration ceremonies shall be solemnly held at Vietnamese diplomatic missions or consular offices. When a marriage registration ceremony is organized, both marriage partners must be present. The representative of the concerned Vietnamese diplomatic mission or consular office shall preside over the ceremony, requesting the two parties to make final statement on their voluntary marriage. If the two parties agree to marry each other, the representative of the Vietnamese diplomatic mission or consular office shall record the marriage into the marriage register, request each party to sign the marriage certificate and the marriage register, and hand to the husband and the wife each one original marriage certificate.

4. A marriage certificate shall be valid from the date the marriage registration ceremony is organized and the marriage is recorded in the marriage register as provided for in Clause 3 of this Article. The granting of copies of marriage certificates from the original registers shall be effected by Vietnamese diplomatic missions or consular offices or the Foreign Ministry at the request of the involved parties."

7. To amend Article 20 as follows:

"Article 20. Recognition of marriages already carried out overseas

1. Marriages between Vietnamese citizens or between Vietnamese citizens and foreigners, which have been registered at competent agencies of foreign countries according to the laws of those countries, shall be recognized in Vietnam, if by the time of marriage such Vietnamese citizens have not violated Vietnamese legal provisions on marriage conditions.

Where there are violations of Vietnamese law regarding the marriage conditions but by the time of

requesting the recognition of marriages, the consequences of such violations have already been redressed or the recognition of such marriages is favorable for the protection of interests of women and children, such marriages shall still be recognized in Vietnam.

2. The marriage recognition prescribed in Clause 1 of this Article shall be annotated in registers according to the legal provisions on civil status registration. Where a Vietnamese citizen is absent from the competent foreign country for filling in the marriage registration procedures, upon a request for recognition of such marriage in Vietnam, the concerned provincial/municipal Justice Service shall interview the marriage partners to verify the voluntariness of their marriage."

8. To amend and supplement Article 35 as follows:

"Article 35. Principles for child adoption settlement

1. The letting of children to be adopted and the adoption of children can be carried out only in the spirit of humanitarianism, aiming to ensure the best interests for children and the respect for their fundamental rights.

It is strictly forbidden to take advantage of child adoption for the purposes of exploiting child labor, sexually abusing or trafficking in children or for purposes other than child adoption; it is also strictly forbidden to abuse the introduction, settlement and registration of child adoption for self-seeking purposes or illicit material benefits.

2. Foreigners permanently residing overseas and applying for adoption of Vietnamese children shall be considered for settlement if Vietnam and the foreign countries where such foreigners permanently reside are contracting states to a bilateral or multilateral international agreement on child adoption cooperation.

3. Foreigners permanently residing overseas and

applying for adoption of Vietnamese children but the countries where they permanently reside and Vietnam have not yet been contracting states to a bilateral or multilateral international agreement on child adoption cooperation, may also be considered for settlement if they fall into one of the following cases:

a/ Having worked or studied in Vietnam for 6 months or more;

b/ Their wives, husbands, or fathers or mothers being Vietnamese citizens or of Vietnamese origin;

c/ Being next-of-kin or relatives of the to be-adopted children or their currently adopted children being blood siblings of the to be-adopted ones.

d/ Foreigners falling into cases other than those mentioned at Points a, b and c of this Clause but applying for adoption of handicapped or disabled children, children having lost their civil act capacity, children being victims of toxic chemicals or affected by HIV/AIDS or infected with other dangerous diseases, who are living in lawfully set up nurturing establishments, or children defined in Clause 3, Article 36 of this Decree shall also be considered for handling;

e/ Other cases as decided by the Justice Minister."

9. To amend and supplement Article 36 as follows:

"Article 36. Children to be adopted

1. Children to be adopted must be aged fifteen or younger. Children aged between over fifteen and under sixteen can be adopted only if they are disabled or have lost their civil act capacity.

Children can only be adopted by one person or two persons being husband and wife. Such husband and wife must be persons of different sexes and bound together by marital relations.

2. Children to be adopted are those living in nurturing establishments lawfully set up in Vietnam, including:

a/ Abandoned children;

b/ Orphans;

c/ Handicapped or disabled children;

d/ Children who have lost their civil act capacity;

e/ Children being victims of toxic chemicals;

f/ Children affected by HIV/AIDS;

g/ Children suffering from other dangerous diseases;

h/ Other children who are admitted to nurturing establishments under the provisions of law.

3. Children living in families may also be considered for adoption by foreigners if they are orphans; handicapped or disabled children; children who have lost their civil act capacity; children suffering from other dangerous diseases; children being victims of toxic chemicals; children affected by HIV/AIDS; children who are relatives or next-of-kin of the applicants or who have blood siblings being adopted by the applicants.

4. Handicapped or disabled children, children being victims of toxic chemicals, children affected by HIV/AIDS or infected with other dangerous diseases who are being treated overseas shall be considered for adoption if there are foreigners wishing to adopt them."

10. To amend and supplement Article 41 as follows:

"Article 41. Child adopters' dossiers

1. The dossier of a foreign applicant for adoption of a Vietnamese child (children) shall comprise the following papers:

a/ The application for adoption of a Vietnamese child (children), made according to a set form;

b/ The notarized or authenticated copy of the applicant's passport or substitute paper such as laissez-passer or residence card;

c/ The valid permit granted by the competent body of the country where the applicant permanently resides, allowing him/her to adopt children. In cases where this type of permit is not granted by the country of permanent residence of the applicant, it shall be substituted for by a written certification of full satisfaction of conditions for child adoption according to the law of that country;

d/ The investigation report on psychological, family and social conditions of the applicant, granted by the competent organization of the country where such applicant permanently resides;

e/ The written certification issued by a competent health organization of the country, where the applicant permanently resides, or by a Vietnamese health organization of the provincial or higher level within 6 months counting to the date the dossier is received, which states that such person is in good health and not suffering from mental diseases or other diseases which render him/her incapable of being aware of or controlling his/her acts, or infected with contagious diseases;

f/ The written certification of the applicant's income, proving that he/she can afford child adoption;

g/ The applicant's judicial record card, issued by the competent agency of the country where he/she permanently resides, within 12 months counting to the date the dossier is received;

h/ The copy of the applicant's marriage certificate, in cases where he/she is a spouse in the marital period;

i/ Child adoption applicants in the cases defined at Points a, b and c, Clause 3, Article 35 of this Decree must have suitable papers as proof, issued by the competent agency of Vietnam or the country where he/she permanently resides.

2. The papers prescribed in Clause 1 of this Article shall be compiled in 2 sets of dossier.

Where foreigners applying for adoption of Vietnamese children fall into the cases defined in Clause 2, Article 35 of this Decree, their child adoption

dossiers must be submitted by the concerned foreign competent agencies or organizations to the International Child Adoption Agency.

Where foreigners applying for adoption of Vietnamese children fall into the cases defined in Clause 3, Article 35 of this Decree, they must personally submit their child adoption dossiers to the International Child Adoption Agency.

11. To amend and supplement Clause 1 of Article 42 as follows:

"1. Within 7 days as from the date of receiving the complete dossiers and charges, the International Child Adoption Agency shall examine and consider the entire dossiers.

In cases where the dossiers are incomplete or invalid, the International Child Adoption Agency shall notify the child adoption applicants thereof for supplementation and finalization of the dossiers."

~~12. To amend and supplement Article 44 as follows:~~

"Article 44. Dossiers of to be-adopted children

1. The dossier of a to be-adopted child shall comprise the following papers:

a/ The notarized or authenticated copy of the child's birth certificate;

b/ The written agreement to let the child be adopted, signed by the persons defined in Clause 4 of this Article;

c/ The written certification by the health organization of the district or higher level of the child's health conditions;

d/ Two color photos of the child, taken at full-length, of 10cm x 15cm or 9cm x 12cm size.

2. For children living in lawfully set up nurturing establishments, in addition to the papers prescribed in Clause 1 of this Article, the to be-adopted children's

dossiers must also include decisions of agencies or organizations competent to admit such children in nurturing establishments, written records on the consignment of the children into nurturing establishments and papers corresponding one of the following cases:

a/ For an abandoned child, the report on the affair, made by the person that has detected the abandoned child; child abandonment record (certified by the local police or local administration); the paper evidencing that the child abandonment has been announced on the mass media (of the provincial or higher level) for 30 days but no relative has come to receive the child;

b/ For an orphan, the notarized or authenticated copy of the death certificates of his/her natural parents;

c/ For a child whose parents have lost their civil act capacity, the notarized copy of the court's legally effective judgment or decision, declaring that his/her natural parents have lost their civil act capacity.

3. For children living in families, in addition to the papers defined in Clause 1 of this Article, there must also be notarized or authenticated copies of household registration books or definite temporary residence certificates of their natural parents or guardians who are nurturing such children.

4. The following persons can sign written agreement on child adoption:

a/ The heads of the nurturing establishments lawfully set up in Vietnam voluntarily agree to let the adoption of children living in such establishments. In cases where the father and/or mother of a child are/is still alive, there must also be the written voluntary agreement of the father and/or mother of that child, except for the cases defined at Points a and c, Clause 2 of this Article or when such child was consigned into the nurturing establishment with his/her parents' written agreement to voluntarily let him/her be adopted;

b/ The natural parents of a child may voluntarily

agree to let their child who is living in their family be adopted. If a parent of the child has died or lost his/her civil act capacity, only the agreement of the surviving parent is required. Where both parents of the child have died or lost their civil act capacity, there must be the consent of the guardian of that child.

c/ For children of full nine years of age or older, his/her written consent on adoption is required (which can be stated in the paper defined at Point a or b of this Clause).

5. For handicapped or disabled children, children being victims of toxic chemicals, infected with HIV/AIDS or other dangerous diseases defined at Point d, Clause 3, Articles 35 and 36 of this Decree, there must be written certifications issued by competent medical establishments according to regulations of the Health Ministry and relevant provisions of law. For children having lost their civil act capacity defined at Point d, Clause 3, Article 35 and Article 36 of this Decree, there must be notarized copies of the legally effective court ruling that such children have lost their civil act capacity."

13. To amend and supplement Clauses 2 and 3 of Article 47 as follows:

"2. Within 30 days as from the date of receiving the notice of the provincial/municipal Justice Service, a foreigner applying for adoption of a Vietnamese child (children) must be present in Vietnam to pay fees to the latter and complete child adoption procedures. If for objective reasons they cannot present themselves within the said time limit, they must send written requests to the provincial/municipal Justice Service for extension thereof but the extension duration shall not exceed 60 days, counting from the date the provincial/municipal Justice Service issues written permission for such extension.

Foreigners applying for adoption of Vietnamese children must make written commitments (according

to a set form) to notify once every six months the provincial-level People's Committee and the International Child Adoption Agency of the development of the adopted children in the first three years, then notify such once a year in the subsequent years till the children reach full 18 years of age.

Where for objective reasons, the foreigners applying for adoption of Vietnamese children cannot be present in Vietnam, they may sign in advance the written commitments (made according to the set form) and authorize in writing the Vietnam-based foreign child adoption agencies which apply for child adoption on their behalf, to pay fees and submit written commitments to provincial/municipal Justice Services for completion of child adoption procedures. Foreign applicants for adoption of Vietnamese children must commit not to refuse to adopt the children who are recommended for adoption.

3. Within 7 days as from the date a foreign applicant for child adoption or the Vietnam-based foreign child adoption agency authorized by such applicant pays fees and sign the written commitment to notify the development of the adopted child, the provincial/municipal Justice Service shall report the verification results and make proposals on processing of the foreigner's application for adoption of the Vietnamese child, then submit them together with one set of the child's dossier and one set of the child adoption applicant's dossier to the provincial-level People's Committee for decision."

14. To amend and supplement Clause 1 of Article 79 as follows:

"1. The provisions of this Decree shall also apply to handle the registration of marriage, father, mother or child recognition and child adoption between Vietnamese citizens, either or both of them permanently residing abroad. In cases where Vietnamese citizens permanently residing overseas

apply for adoption of Vietnamese children defined in Article 36 of this Decree, their applications shall be considered for handling without any restrictions according to the provisions of Clause 3, Article 35 of this Decree.

Where foreigners permanently residing in foreign countries apply for adoption of Vietnamese children defined in Clause 4, Article 36 of this Decree, their applications shall be considered for handling according to the provisions of Section 2, Chapter IV of this Decree as for children without permanent household registration in the country."

15. To add to the beginning of Clause 3 of Article 81 the following provisions:

"The Central Committee of the Vietnam Women's Union shall coordinate with the Justice Ministry, the Home Affairs Ministry, the Finance Ministry and other concerned ministries and branches in guiding the implementation of a number of this Decree's provisions on marriage support centers."

16. To remove the word "divorce" in Article 7 and in the title of Section 2, Chapter II of the Government's Decree No. 68/2002/ND-CP of July 10, 2002.

Article 2.- This Decree takes effect 15 days after its publication in "CONG BAO." The Justice Minister shall have to guide and inspect the implementation of this Decree.

Article 3.- Ministers, heads of ministerial-level agencies, heads of the Government-attached agencies, presidents of provincial/municipal People's Committees, and concerned organizations and individuals shall have to implement this Decree.

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG